THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17494 OF 2006

23.08.2006

Between:

Nandigama Ramulu, S/o.Maisaiah

… Petitioner

AND

The Joint Collector-I, Ranga Reddy District
And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17494 OF 2006

ORDER:

The petitioner is grandson of one Nandigama Ramaiah, who was allegedly protected tenant under the provisions of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (the Act, for brevity), in respect of the land admeasuring Acs.8.32 guntas in survey Nos.260, 265, 266 and 267 situated at Palamakul Village of Shamshabad Mandal in Ranga Reddy District. The petitioner claims to be son of late Maisaiah, one of the two sons of late Ramaiah and also legal heir entitled to succeed the protected tenancy along with five others. Be it noted that Section 40 of the Act makes protected tenancy heritable by lineal descendants of the protected tenants. The petitioner and others, therefore, made an application to the second respondent seeking succession. The second respondent following an unreported judgment of this Court in **Chakali Ramaiah v The Joint Collector, Ranga Reddy District**[1] and the instructions issued by the Joint Collector, Ranga Redy District vide circular dated 15.4.2005 advise them to obtain succession certificate from Civil Court. Assailing the said memo dated 17.2.2006, the petitioner filed the present writ petition.

Learned Counsel for the petitioner submits under Section 40 of the Act read with A.P. (Telangana Area) Tenancy and Agricultural Lands Rules, 1950, the Mandal Revenue Officer is competent to declare the petitioner and others as successors of the protected tenant and, therefore, the impugned memo is unsustainable. **Per contra**, learned Assistant Government Pleader for Revenue (General) has brought to the notice of this Court that an unreported judgment of this Court in **Syed Abdul Majeed @ Mia Pasha v The Joint Collector-II, Ranga Reddy District**[2] and submits that under Section 40 of the Act, it is not competent for the MRO to decide the questions of succession.

In **Syed Abdul Majeed @ Mia Pasha** (supra), after referring to various provisions of the Act and the Rules, this Court laid down as under.

> Reading Section 40 of the Act and the Tenancy Rules together, it must be held that though under Section 40 of the Act, Tahsildar has no power to decide questions of succession

to the protected tenancy. In the event of acquisition of rights, Tahsildar can conduct verification under Rule 14 of the Rules and order amendments in the register of mutations. Such a procedure is also contemplated under Section 4 of the A.P. Rights in Land and Pattadar Pass Book Act, 1971 and Rule 18 of the A.P. Rights in Land and Pattadar Pass Book Rules, 1989. The enquiry contemplated for amending mutation in the event of acquisition of rights either by survivorship or succession is altogether different from adjudicating the question of succession. Even while dealing with the application for recording for amendment of entries in the mutation register, if there is a dispute by the applicant, the MRO should relegate such party to the civil court.

Therefore, this Court does not find any illegality in the impugned order. The writ petition is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August 23, 2006
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[1] W.P.No.20360 of 2005 dated 15.9.2005

[2] W.P.No.13679 of 2006 dated 07.7.2006